

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,  
  
Plaintiff,

vs.

ELADIO PEREZ-GUTIERREZ,  
  
Defendant.

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8:08CR58

ORDER

This matter is before the court on the motion for an extension of time by defendant Eladio Perez-Gutierrez (Perez-Gutierrez) (Filing No. 25). Perez-Gutierrez seeks a continuance of forty-five days of the trial scheduled for May 5, 2008. Perez-Gutierrez's counsel represents that Perez-Gutierrez will file an affidavit wherein he consents to the motion and acknowledges he understands the additional time may be excludable time for the purpose of the Speedy Trial Act. Perez-Gutierrez's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

**IT IS ORDERED:**

1. Defendant Perez-Gutierrez's motion for a continuance of trial (Filing No. 25) is granted.
2. Trial of this matter is re-scheduled for **June 23, 2008**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 2, 2008 and June 23, 2008**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 2nd day of May, 2008.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge